

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/FSS/298

- Applicant** : Mr. Cheng Siu Hung represented by Ching Wan Engineering Consultants Company
- Site** : Lots Nos. 3984 S.D and 3985 S.O in D.D. 51, Wo Hop Shek Village, Fanling, New Territories
- Site Area** : 125.02m² (about)
- Lease** : Old Schedule Agricultural Lots held under Block Crown Lease
- Plan** : Approved Fanling/Sheung Shui Outline Zoning Plan (OZP) No. S/FSS/28
- Zoning** : “Village Type Development” (“V”) (45%)
[maximum building height of 3 storeys (8.23m)]

“Green Belt” (“GB”) (55%)
- Application** : Proposed House (New Territories Exempted House (NTEH) – Small House)

1. The Proposal

1.1 The applicant, who claims to be an indigenous villager of Wo Hop Shek Village¹, seeks planning permission to build a NTEH (Small House) on the application site (the Site) in Wo Hop Shek Village, Fanling. The Site falls within an area partly zoned “V” (45%) and partly zoned “GB” (55%) on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘House (NTEH Only)’ is a Column 1 use always permitted within the “V” zone of the OZP, whereas ‘House’ is a Column 2 use within the “GB” zone requiring planning permission from the Town Planning Board (the Board). The Site is currently paved and used for vehicles parking (**Plans A-3 and A-4**).

1.2 Details of the proposed NTEH (Small House) are as follows:

Total Floor Area	: 195.09m ²
No. of Storeys	: 3
Building Height	: 8.23m
Roofed Over Area	: 65.03m ²

1.3 The layout of the proposed NTEH (Small House) (including septic tank) is shown

¹ As advised by the District Lands Officer/North, Lands Department (DLO/N of LandsD), the applicant’s eligibility for Small House concessionary grant has yet to be ascertained.

on **Drawing A-1**. The applicant indicates that the uncovered area of the Site would be used as garden area. The Site is accessible via a local track connecting to Wo Hing Road (**Plans A-1 and A-2**).

1.4 The Site is the subject of one previous application (No. A/FSS/237) submitted by another applicant for a proposed house (NTEH) – Small House, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 4.9.2015. The planning permission lapsed on 4.9.2019. Compared with the previous application, the site boundary of the current application is slightly different. Details of the previous application are set out in paragraph 7 below.

1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application form with plans received on 9.4.2024 **(Appendix I)**
- (b) Further Information (FI) received on 29.5.2024* **(Appendix Ia)**

** accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form, supplementary information and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) the applicant, who is the registered owner of the Site, is an indigenous villager of Wo Hop Shek Village and entitled to a Small House under the prevailing Small House policy;
- (b) the proposed NTEH is located within the ‘village environ’ (‘VE’) of Wo Hop Shek Village and Wo Hing Tsuen;
- (c) the proposed Small House development is compatible with the surrounding land uses; and
- (d) majority of the Site is subject to an approved application No. A/FSS/237 for proposed house (NTEH – Small House).

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Assessment Criteria

The set of Interim Criteria for Consideration of Application for New Territories Exempted House/Small House in New Territories (the Interim Criteria) was first promulgated on 24.11.2000. The latest set of Interim Criteria promulgated on 7.9.2007 is at **Appendix II**.

5. **Town Planning Board Guidelines**

The Town Planning Board Guidelines No. 10 (TPB PG-No. 10) for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ is relevant. The relevant assessment criteria are at **Appendix III**.

6. **Background**

The Site is not subject to planning enforcement action.

7. **Previous Application**

7.1 The Site is the subject of one previous application (No. A/FSS/237) submitted by another applicant for a proposed house (NTEH) – Small House, which was approved with conditions by the Committee on 4.9.2015, mainly on the considerations that the application generally complied with TPB PG-No. 10 as the site was paved and in close proximity to the existing village and disturbance on existing landscape resources was not anticipated; the application site and the footprint of the proposed Small House fell entirely within the ‘VE’ of Wo Hop Shek Village and Wo Hing Tsuen; there were 11 similar Small House applications to the immediate south which were approved with conditions by the Committee between 2007 and 2012; the proposed Small House was located close to the village cluster of Wo Hop Shek Village and would allow a more orderly development pattern for efficient provision of infrastructure and services; the proposed Small House was not incompatible with the surrounding land uses; and the concerned Government departments had no adverse comment on or no objection to the application. The planning permission, however, lapsed on 4.9.2019.

7.2 Details of the previous application are summarised in **Appendix IV** and the location is shown on **Plans A1 and A-2a**.

8. **Similar Applications**

8.1 There are 14 similar applications (No. A/FSS/172, 173, 174, 175, 176, 177, 181, 202, 203, 204, 212, 238, 239 and 240) for proposed house (NTEH – Small House) on 13 separate sites to the east, northeast and southeast of the Site approved by the Committee between 2007 and 2015 mainly on similar grounds as stated in paragraph 7.1 above. Five of them (No. A/FSS/172, 173, 174, 239 and 240) were located partly with the same “V” and “GB” zones, while the remaining nine applications are located entirely within the same “GB” zone.

8.2 Details of the applications are summarised at **Appendix IV** and their locations are shown on **Plans A-2a**.

9. **The Site and Its Surrounding Areas** (Plans A-1 to A-3 and site photos on **Plan A-4**)

9.1 The Site is:

- (a) located to the southwest of the village cluster of Wo Hop Shek Village and

entirely falls within the ‘VE’ of Wo Hop Shek Village and Wo Hing Tsuen²;

- (b) currently paved for vehicles parking; and
- (c) accessible via a local track connecting to Wo Hing Road to the northwest of the Site.

9.2 The surrounding areas are predominantly rural in character comprising village houses, car parks, storage, stone factories, repair workshop and unused land with the following characteristics:

- (a) to the immediate northeast, east and southeast are the 13 sites with planning applications for Small House approved by the Committee between 2007 and 2015 as mentioned in paragraph 8.1; to the immediate west, northwest and north are sites within the “V” zone with Small House applications being processed by the District Lands Officer / North, Lands Department (DLO/N, LandsD); and
- (b) to the further northeast are the existing village houses of Wo Hop Shek Village; to the further east and southeast are unused land with tree groups and graves; to the further south, west and north are temporary structures for storage, stone factories, repair workshop as well as car parks.

10. **Planning Intention**

The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

11. **Planning Assessments and Comments from Relevant Government Departments**

11.1 The application has been assessed against the assessment criteria in **Appendix II**. The assessment is summarised in the following table:

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
1.	Within “V” zone?			
	- The Site	45%	55%	- 55% of the Site falls within the “GB” zone.
	- Footprint of the proposed Small House	57%	43%	- 43% of the footprint of the proposed Small House falls within the “GB” zone.

² Wo Hop Shek Village is an indigenous village, whereas Wo Hing Tsuen currently occupied by squatter settlements is not an indigenous village.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
2.	<p>Within 'VE'?</p> <ul style="list-style-type: none"> - The Site - Footprint of the proposed Small House 	<p>100%</p> <p>100%</p>	<p>-</p> <p>-</p>	<ul style="list-style-type: none"> - DLO/N, LandsD advises that the Site and footprint of the proposed Small House fall entirely within the 'VE' of Wo Hop Shek Village and Wo Hing Tsuen.
3.	<p>Sufficient land in "V" zone to meet Small House demand (outstanding Small House application plus 10-year Small House demand)?</p>		✓	<p><u>Land required</u></p> <ul style="list-style-type: none"> - Land required to meet Small House demand in Wo Hop Shek Village: about 4.3 ha (equivalent to 171 Small House sites). The outstanding Small House applications for Wo Hop Shek Village are 39 while the 10-year Small House demand forecast for Wo Hop Shek Village is about 132.
	<p>Sufficient land in "V" zone to meet outstanding Small House application?</p>	✓		<p><u>Land available</u></p> <ul style="list-style-type: none"> - Land available to meet the Small House demand within "V" zone of Wo Hop Shek Village: about 1.886 ha (equivalent to about 75 Small House sites) (Plan A-2b).
4.	<p>Compatible with the planning intention of "GB" zone?</p>		✓	<ul style="list-style-type: none"> - There is a general presumption against development within "GB" zone. - The Director of Agriculture, Fisheries and Conservation (DAFC) has no comment on the application from nature conservation perspective.
5.	<p>Compatible with surrounding area/development?</p>	✓		<ul style="list-style-type: none"> - The proposed development is not incompatible with the surrounding areas which are predominantly rural in character comprising village houses, car parks, storage, stone factories, repair workshop and unused land with tree groups and graves.
6.	<p>Within Water Gathering Ground?</p>		✓	<ul style="list-style-type: none"> - Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) has no objection to the application.

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
7.	Encroachment onto planned road networks and public works boundaries?		✓	
8.	Need for provision of fire services installations and Emergency Vehicular Access (EVA)?		✓	<ul style="list-style-type: none"> - The Director of Fire Services (D of FS) has no objection in principle to the application provided that the proposed house would not encroach on any existing EVA or planned EVA under application in accordance with LandsD's record.
9.	Traffic impact?	✓		<ul style="list-style-type: none"> - The Commissioner for Transport (C for T) has reservation on the subject application and advises that the Small House development should be confined within the "V" zone as far as possible. Although additional traffic generated by the proposed development is not expected to be significant, such type of development outside the "V" zone, if permitted, will set an undesirable precedent case for similar applications in the future. The resulting cumulative adverse traffic impact could be substantial. - Notwithstanding the above, the application only involves the construction of one Small House and can be tolerated.
10.	Drainage impact?		✓	<ul style="list-style-type: none"> - The Chief Engineer/Mainland North, Drainage Services Department (CE/MN of DSD) has no objection from the public drainage point of view.
11.	Sewerage impact?		✓	The Director of Environmental Protection (DEP) advises that for NTEH without public sewers, the applicant should follow the Practice Note For Professional Persons ProPECC PN 1/23 Drainage Plans subject to Comment by the Environmental Protection Department – Building

	<u>Criteria</u>	<u>Yes</u>	<u>No</u>	<u>Remarks</u>
				(Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations (Cap. 123I) Section 40(1), 40(2), 41(1) and 90.
12.	Landscape impact?		✓	- Comments from the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L of PlanD) has no objection to the application from landscape planning perspective as significant adverse landscape impact arising from the development within the Site is not envisaged.
13.	Local objections conveyed by DO(N)?		✓	- District Officer (North), Home Affairs Department (DO(N), HAD) advises that one member of the North District Council (NDC), three Indigenous Inhabitant Representatives (IIRs) and the Resident Representative (RR) of Wo Hop Shek supported the application; while the Chairman of the Fanling District Rural Committee (FDRC) and seven members of NDC had no comment on the application. 15 members of the NDC did not reply by deadline.

11.2 Comments from the following government departments have been incorporated in paragraph 11.1 above. Their other detailed comments, if any, are at **Appendix V**.

- (a) DLO/N of LandsD;
- (b) C for T;
- (c) CE/MN of DSD;
- (d) CE/C of WSD;
- (e) DEP;
- (f) CBS/NTW of BD;
- (g) DAFC;
- (h) CTP/UD&L of PlanD;
- (i) C of P;
- (j) D of FS; and
- (k) DO(N), HAD.

11.3 The following government departments have no comment on / no objection to the

application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE of HyD); and
- (b) Project Manager (North), Civil Engineering and Development Department (PM(N) of CEDD).

12. **Public Comments Received During Statutory Publication Period (Appendix VI)**

On 16.4.2024, the application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received objecting to the application mainly on the grounds that there is sufficient land within “V” zone to fulfil the demand for Small House development and most of it is used for vehicles parking. Approval of the application would encourage further penetration into the “GB” zone.

13. **Planning Considerations and Assessments**

- 13.1 The application is for a NTEH (Small House) development at the Site which falls partly within “V” zone (45%) and partly within “GB” zone (55%) (**Plan A-1**). Although the proposed development is always permitted within “V” zone, it is not in line with the planning intention of the “GB” zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets, and there is a general presumption against development. There is no strong justification in the submission for a departure from the planning intention of this zone.
- 13.2 The Site is located entirely within the ‘VE’ of Wo Hop Shek Village and Wo Hing Tsuen, and is currently paved for vehicles parking. The proposed development is not incompatible with the surrounding areas which are predominantly in rural character comprising village houses, car parks, storage, stone factories, repair workshop and unused land with tree groups and graves. CTP/UD&L, PlanD has no objection to the application from landscape planning perspective as significant landscape impact within the Site arising from the proposed development is not anticipated. Besides, CE/MN of DSD, CE/C of WSD, DEP, CBS/NTW of BD, C of P, DAFC and D of FS have no comment on or no objection to the application. C for T has reservation on the application mainly due to traffic concerns on undesirable precedent case for accumulative similar applications in future, but considers that the application could be tolerated given that the application involves one Small House only.
- 13.3 Regarding the Interim Criteria (**Appendix II**), according to DLO/N, LandsD, the number of outstanding Small House applications for Wo Hop Shek Village is 39 while the 10-year Small House demand forecast is 132. Based on the latest estimate by PlanD, about 1.886 ha of land (equivalent to 75 Small House sites) is available in the concerned “V” zone (**Plan A-2b**). While the amount of land available within the “V” zone is insufficient to fully meet the future Small House demand, it is sufficient to accommodate the outstanding Small House applications. It should be noted that the Board had formally adopted a more cautious approach in considering applications for Small House development since August 2015. Among others, in considering whether there is a general shortage of land in meeting Small House demand, the Board puts more weighting on the number of outstanding

Small House applications as provided by LandsD. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.

- 13.4 Although the Site is subject to a previously approved application No. A/FSS/237 for the same proposed use at the Site, it was submitted by a different applicant and has already lapsed in 2019. At the time of considering the application No. A/FSS/237 in 2015, sympathetic consideration was given as there were 11 similar Small House applications in the vicinity and a new village cluster was expected to be formed in the locality. However, as shown in **Plan A-3**, although planning approvals have been given since 2007, these proposed NTEHs have not yet been developed to form a new village cluster and the surrounding area of the Site is still vacant. As such, the Site is not regarded as an infill site among existing NTEHs and, according to the Interim Criteria, sympathetic consideration is not applicable to the current application.
- 13.5 There are 14 similar applications for the same proposed use to the east, northeast and southeast of the Site approved by the Committee as explained in paragraph 8.1. Among these applications, 11 applications were approved between 2007 and 2012 before the Board formally adopted the above-mentioned more cautious approach in August 2015. The remaining three applications (No. A/FSS/238, A/FSS/239 and A/FSS/240) were approved on 4.9.2015 mainly on the same sympathetic consideration given to application No. A/FSS/237. As explained in paragraph 13.4 above, as there is no existing village cluster formed in the vicinity, sympathetic consideration is not applicable to the current application.
- 13.6 Regarding the objecting public comment received during the statutory public inspection period of the application detailed under paragraph 12, the planning assessments above are relevant.

14. Planning Department’s Views

- 14.1 Based on the assessments made under paragraph 13 and having taken into account the public comment mentioned under paragraph 12, the PlanD does not support the application for the following reasons:
 - (a) the proposed development is not in line with the planning intention of the “GB” zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. No strong justifications are provided in the submission to support a departure from the planning intention; and
 - (b) land is still available within the “Village Type Development” (“V”) zone of Wo Hop Shek Village which is primarily intended for Small House development. It is considered more appropriate to concentrate the proposed Small House development within the “V” zone for more orderly development pattern, efficient use of land and provision of infrastructures and services.
- 14.2 Alternatively, should the Committee decide to approve the application, it is

suggested that the permission shall be valid until 7.6.2028, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. ~~*The following condition of approval and advisory clauses are also suggested for Members' reference.*~~

Approval Condition:

~~*the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or the TPB.*~~

Advisory Clauses:

The recommended advisory clauses are attached at **Appendix VII**.

15. Decision Sought

- 15.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 15.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 15.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the ~~*approval condition(s) and*~~ advisory clause(s), if any, to be attached to the permission, and the date when the validity of the permission should expire.

16. Attachments

Appendix I	Application form with plans received on 9.4.2024
Appendix Ia	FI received on 31.5.2024
Appendix II	Relevant Interim Criteria for Assessing Planning Applications for NTEH/Small House Development in New Territories
Appendix III	Relevant extracts of TPB PG-No. 10
Appendix IV	Previous and Similar Applications
Appendix V	Detailed Comments from Relevant Government Departments
Appendix VI	Public Comments
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Proposed Small House Layout Plan
Plan A-1	Location Plan
Plan A-2a	Site Plan
Plan A-2b	Estimated amount of land available for Small House development within the "V" zone
Plan A-3	Aerial Photo
Plan A-4	Site Photos